IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 87 OF 2002

Mrs. Sheela Deepak Naidu
(Sheela Mathew) ..Appellant

versus

Deepak Sitapati Naidu ..Respondent

Mr. S. Kumbhakoni i/b. Mr. A. V. Anturkar for the Appellant.

Appellant present in person.

Mr. U. Warunjikar with Mr. V. B. Tapkir for the Respondent.

CORAM : D. G. DESHPANDE, &
Smt. R. S. DALVI, JJ.

DATE : 6TH NOVEMBER, 2006

P.C. :

1. Mr. S. Kumbhakoni h/f. Mr. A. V. Anturkar for the Appellant informs that papers have been taken away by the Appellant and therefore Mr. A. V. Anturkar should be permitted to withdraw the appearance. Permission granted. Mr. A. V. Anturkar is discharged as an advocate for the Appellant.

2. Thereafter, the Appellant took upon herself the task of arguing the Appeal.

3. Heard Appellant in person and Advocate for the Respondent.

4. Respondent - husband raised preliminary objection and contented that the decree of divorce was given in favour of the respondent - husband by the Family Court on 8.7.2002 and the respondent married on 11.11.2002 i.e. after the period of 90 days as prescribed by law. Before he entered into second marriage, there was no stay of any court to the decree of divorce and therefore this Appeal has become infructuous. The respondent in the affidavit has also filed a copy of the Marriage Certificate issued by Registrar of Marriages. It is at record page 151.

5. Appellant tried to contend that it was a mistake of her lawyer who did not obtain stay and she may not be made to suffer for the mistake of the lawyer. She also tried to urge that notice was given by her to the Respondent and that he did not reveal the fact of marriage to her for quite a long

time. All these submissions made by the Appellant are totally irrelevant. She applied for and obtained the certified copy of the Judgment of the Family Court by 18.8.2002. However she did not apply for and obtain stay of the impugned judgment within the period of limitation. Hence the Respondent's act of remarrying is upon and after his marriage with the Appellant came to be validly terminated by an order / decree of the Competent Court then in force. Now, the Appeal has become infructuous. Hence, Appeal is dismissed. No order as to costs.

6. Needless to say that as per the order of the Family Court, the respondent shall continue to pay maintenance to the Appellant.

(D.G. DESHPANDE, J.)

(Smt. R.S. DALVI, J.)